

**Animal and Plant Health Inspection Service, USDA**

**§ 301.87-5**

**§ 301.87-3 Regulated areas.**

(a) Except as otherwise provided in paragraph (b) of this section, the Deputy Administrator shall list as a regulated area in paragraph (c) of this section, each quarantined State, or each portion thereof, in which a sugarcane disease has been found by an inspector or in which the Deputy Administrator has reason to believe that a sugarcane disease is present, or each portion of a quarantined State which the Deputy Administrator deems necessary to regulate because of its proximity to a sugarcane disease or its inseparability for quarantine enforcement purposes from localities in which a sugarcane disease occurs. Less than an entire quarantined State will be designated as a regulated area only if the Deputy Administrator is of the opinion that:

(1) The State has adopted and is enforcing a quarantine or regulation which imposes restrictions on the intrastate movement of the regulated articles which are substantially the same as those which are imposed with respect to the interstate movement of such articles under this subpart; and

(2) The designation of less than the entire State as a regulated area will otherwise be adequate to prevent the artificial interstate spread of a sugarcane disease.

(b) The Deputy Administrator or an inspector may temporarily designate any nonregulated area in a quarantined State as a regulated area in accordance with the criteria specified in paragraph (a) of this section for listing such an area. Written notice of the designation shall be given to the owner or person in possession of the nonregulated area and, thereafter, the interstate movement of any regulated article from the area shall be subject to the applicable provisions of this subpart. As soon as practicable, the area shall be added to the list in paragraph (c) of this section or the designation shall be terminated by the Deputy Administrator or an inspector, and notice thereof shall be given to the owner or person in possession of the area.

(c) The areas described below are designated as regulated areas;

*Hawaii*

All of Hawaii.

*Puerto Rico.*

All of Puerto Rico.

**§ 301.87-4 Conditions governing the interstate movement of regulated articles from regulated areas in quarantined States.<sup>3</sup>**

Any regulated article may be moved interstate from any regulated area in a quarantined State if moved under the following conditions:

(a) With a certificate or limited permit issued and attached in accordance with §§ 301.87-5 and 301.87-8 of this subpart, or

(b) Without a certificate or limited permit, if

(1) Moved directly through any regulated area, and

(2) The article originated outside of any regulated area, and

(3) The point of origin of the article is clearly indicated by shipping documents, its identity has been maintained, and it has not been used for the production of sugarcane while in the regulated area.

**§ 301.87-5 Issuance and cancellation of certificates and limited permits.**

(a) A certificate shall be issued by an inspector for the movement of a regulated article if the inspector:

(1)(i) Determines that it has been treated under the direction of an inspector<sup>4</sup> in accordance with § 301.87-10 of this subpart, or

(ii) Determines based on inspection of the article and the premises of origin that it is free from sugarcane diseases;<sup>5</sup>

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7

<sup>3</sup>Requirements under all other applicable Federal domestic plant quarantines must also be met.

<sup>4</sup>Treatments shall be monitored by inspectors in order to assure compliance with requirements in this subpart.

<sup>5</sup>The term *sugarcane diseases* means leaf scald disease with respect to movement of regulated articles from Hawaii and means gummosis disease and leaf scald disease with respect to movements of regulated articles from Puerto Rico.

U.S.C. 7714)<sup>6</sup> to prevent the spread of sugarcane diseases; and

(3) Determines that it is eligible for unrestricted movement under all other Federal domestic plant quarantines applicable to the article.

(b) A limited permit shall be issued by an inspector for the movement of a regulated article if the inspector:

(1) Determines, in consultation with the Deputy Administrator, that it is to be moved:

(i) For a specified purpose (such as for consumption or manufacturing) stated on the limited permit, other than for processing or harvesting sugarcane; and

(ii) To a specified destination stated on the limited permit, which is not in a county or parish where sugarcane is produced, and which is not within 10 miles of a sugarcane field;

(2) Determines that it is to be moved in compliance with any additional conditions deemed necessary under section 414 of the Plant Protection Act (7 U.S.C. 7714)<sup>6</sup> to prevent the spread of sugarcane diseases; and

(3) Determines that it is eligible for such movement under all other Federal domestic plant quarantines applicable to the article.

(c) Certificates and limited permits for shipments of regulated articles may be issued by an inspector or by any person engaged in the business of growing, handling, or moving regulated articles provided such person is operating under a compliance agreement. Any such person may execute and issue a certificate for the interstate movement of a regulated article if the person has treated the regulated article to destroy infection in accordance with the provisions of § 301.87-10 of this subpart and the inspector has made the determination that the article is otherwise eligible for a certificate in accordance with paragraph (a) of this section; or if the inspector has made the determination that the article is eligible for a certificate in accordance with paragraph (a) of this section without such treatment.

<sup>6</sup>An inspector may hold, seize, quarantine, treat, apply other remedial measures to, destroy, or otherwise dispose of plants, plant pests, or other articles in accordance with sections 414, 421, and 434 of the Plant Protection Act (7 U.S.C. 7714, 7731, and 7754).

Any such person may execute and issue a limited permit for interstate movement of a regulated article when the inspector has made the determination that the article is eligible for a limited permit in accordance with paragraph (b) of this section.

(d) Any certificate or limited permit which has been issued or authorized may be withdrawn by an inspector if the inspector determines that its holder has not complied with any condition under the regulations for its use. The reasons for the withdrawal shall be confirmed in writing as promptly as circumstances allow. Any person whose certificate or limited permit has been withdrawn may appeal the decision in writing to the Deputy Administrator within ten days after receiving the written notification of the withdrawal. The appeal shall state all of the facts and reasons upon which the person relies to show that the certificate or limited permit was wrongfully withdrawn. The Deputy Administrator shall grant or deny the appeal in writing, stating the reasons for the decision as promptly as circumstances allow. If there is a conflict as to any material fact, a hearing shall be held to resolve the conflict under rules of practice which shall be adopted by the Administrator of the Animal and Plant Health Inspection Service, USDA, for the proceeding.

[48 FR 50059, Oct. 31, 1983, as amended at 66 FR 21053, Apr. 27, 2001]

#### **§ 301.87-6 Compliance agreement; cancellation.**

(a) Any person engaged in the business of growing, handling, or moving regulated articles may enter into a compliance agreement to facilitate the movement of regulated articles under this subpart.<sup>7</sup> The compliance agreement shall be a written agreement between a person engaged in such a business and Plant Protection and Quarantine, in which the person agrees to

<sup>7</sup>Compliance Agreement forms are available without charge from the Animal and Plant Health Inspection Service, Plant Protection and Quarantine, Domestic and Emergency Operations, 4700 River Road Unit 134, Riverdale, Maryland 20737-1236, and from local offices of Plant Protection and Quarantine. (Local offices are listed in telephone directories.)